IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Chapter VIII, Rule 32(2) (b)
Description of case

Writ Petition No. 24 of 2001 (M/S)

Date of decision: 20th November, 2004.

For the approval of:

Hon'ble Chief Justice V.S. Sirpurkar.
Hon'ble Mr. Justice Rajesh Tandon.

- Whether the order/judgment should be sent to the reporters for reporting? (Yes)

- Whether the reporters be allowed to see the judgment? (Yes)

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IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 24 of 2001 (M/S)

Arun Goel ……. Petitioner

Vs.

State of Uttaranchal and others……... Respondents

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Mr. B.P.S.Mer, learned counsel on behalf of the petitioner.
Mr. J.P. Joshi, learned Additional C.S.C. for the State

Coram: Hon. V.S. Sirpurkar, C.J.
Hon. Rajesh Tandon, J.

Dated: 20.11.2004.

(PC:

1. Heard learned counsel for the parties.

2. This writ petition has no merit. The writ petitioner had originally obtained *Patta* for a period of three years occupation way back in the year 1997 and then applied for putting a temporary construction/*Khokha* over the land. He was accordingly given permission. It seems, however, that he put permanent construction and authorities, therefore, wanted to demolish the same. The writ petitioner rushed to this Court by way of the present writ petition, wherein he contends that he cannot be ousted from the land.

3. We do not find any merit in this writ petition because there were certain conditions on which the permission was granted, and more particularly condition no. 6 thereof is that if there is any permanent construction made over the land, it would be demolished by the State. Condition no. 7 also creates a right in the authorities that in case they require the land, they would serve a notice of one month and the occupant then would have to vacate the land. The contention of the petitioner that the lease is permanent has no basis because there is no evidence in support of that. All that the petitioner has filed is a document suggesting that the application of the petitioner for the lease of the plot is acceptable to the Government. We do not have anything before us suggesting as to

what kind of lease has been sanctioned and for how much time. However, learned counsel for the State points out that the lease was only for three years and his lease hold rights are also over by the march, 2000. Be that as it may, it is obvious that the petitioner has no case, though he is claiming that he has put in his temporary construction of *Khokha.* Even if the said *Khokha* was to be removed, he is required to be given one months notice. We only say that if the authorities shall take back possession, the authorities would be entitled to do so only after serving a notice on the petitioner of one month as per provisions of the U.P. Urban Planning and Development Act, 1973.

With the above observations, writ petition is disposed of.

(V.S. Sirpurkar, C.J.)

(Rajesh Tandon, J.)

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